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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/183,715	10/30/1998	VINCENTZIO I. ROMAN	500.709US1	3436

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EXAMINER

TRAN, CONGVAN

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 10/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/183,715

Applicant(s)

ROMAN, VINCENTZIO I.

Examiner

Congvan Tran

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2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Oct. 09, 2002 has been entered.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Shohara (6301482).

Regarding claim 1, Shohara discloses a DMA cellular radio system with a channel quality criterion, comprising a number of communication circuits disposed to

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divided a region into communication areas (see fig.1, elements 2, and its description); wherein each communication circuit communicates using a first polarization in a first portion of its communication area and communicates using a second, different polarization in a second portion of its communication area (see fig.5, elements H1 horizontal polarization, V1 vertical polarization, and its description); and wherein adjacent portions of communication areas between of different communication circuits use the same polarization to form communication regions of same polarization (see fig.5, elements 1b, 2c and its description).

Regarding claim 12, Shohara discloses a DMA cellular radio system with a channel quality criterion, comprising a number of communication circuits disposed to form substantial linear boundaries between communication areas (see fig.1, elements 2, fig.5, and its description); and wherein the communication circuits use first and second, different polarizations for signals communicated in adjacent regions (see fig.5, elements 1b, 2c, H horizontal polarization, V vertical polarization, and its description);

Regarding claims 21, 46, Shohara discloses a DMA cellular radio system with a channel quality criterion, comprising dividing a region into a number of communication areas, each communication area including a communication circuit (see fig.1, elements 2, fig.2 and its description); communicating using a first polarization in a first portion of each communication area (see fig.5, H1 horizontal polarization and its description); communicating using a second polarization in a second portion of each communication area (see fig.5, V1 vertical polarization and its description); and wherein adjacent portions of communication areas between of different communication circuits use the

same polarization to form communication region belts having the same polarization (see fig.5, elements 1b, 2c and its description).

Regarding claim 31, Shohara discloses a DMA cellular radio system with a channel quality criterion, comprising forming boundaries between bands of communication regions by disposing a number of communication circuits (see fig.5, and its description); communicating using a first polarization in a first portion (see fig.5, H2 horizontal polarization and its description); and communicating using a second polarization in an adjacent region to the first region (see fig.5, elements 1b, 2c, V1 vertical polarization and its description).

Regarding claim 40, Shohara discloses a DMA cellular radio system with a channel quality criterion, comprising forming a number of communication areas, each communication area including a communication circuit, each communication circuit communicating a first polarization in a first portion of each communication area and a second polarization in a second portion of each communication area (see fig.1, fig.2, element 2, fig.5, H horizontal, V vertical and its description); forming a number of communication regions in belts of either the first or second polarization wherein adjacent portions of communication areas between different communication circuit use the same polarization (see fig.5, elements 1b, 2c and its description); and forming a number of sectors within each communication area, where the first and second portions of communication area are divided along a number of boundaries of the sectors, each sector communicating on a different subband of frequency spectrum (see fig.5, elements 1a-d, and its description).

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Regarding claims 12-11, 13-20, 22-30, 32-39, 41-45, 47-54, Shohara also discloses in fig.5 (see its description).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Congvan Tran whose telephone number is 703-305-4024. The examiner can normally be reached on monday-thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
CONGVAN TRAN  
PATENT EXAMINER

Congvan Tran  
Examiner  
Art Unit 2683

CT  
October 22, 2002